

ZBA SPECIAL EXCEPTIONS

A Special Exception is a use of land or buildings that is permitted, subject to specific conditions that are set forth in the Ordinance. RSA 674:33 IV. *A local zoning ordinance may provide that the Zoning Board of Adjustment, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the Ordinance. All special exceptions shall be made in harmony with the general purpose and intent of the zoning ordinance and shall be in accordance with the general or specific rules contained in the ordinance.*

Under this authority, the Board of Adjustment has the power to grant those exceptions which are clearly specified in the zoning ordinance. The legislative body, in enacting the ordinance, established what can be granted as an exception and the conditions which must be met before the board of adjustment may grant it. "If the conditions for a special exception are not met the board cannot allow it; however, if the conditions are met, the board must grant the special exception"

Shell Oil v. Manchester 101 NH 76, (1957)

From the Board of Adjustment Handbook – State of NH Office Of Energy and Planning

The Board of Adjustment **cannot legally approve a special exception for a prohibited use if the ordinance does not identify that use.** Also, the Board cannot legally approve a special exception if the stipulated conditions do not exist or cannot be met.

On the other hand, **if the special exception is listed in the ordinance and the conditions are met, the board cannot legally refuse to grant the special exception** even though it may feel that the standards are not adequate to protect the neighborhood. Three questions must be answered to decide whether or not a special exception can be legally granted:

1. Is the use one that is ordinarily prohibited in the district?
2. Is the use specifically allowed as a special exception under the terms of the Ordinance
3. Are the conditions specified in the ordinance for granting the exception met in the particular case?

Fremont Zoning Article IX Section H Special Exceptions: The Board of Adjustment, after proper public notice and public hearing, may grant special exceptions for the following uses within the district, the application for such uses having been referred by the Planning Board for site plan review, the Conservation Commission, the Health Officer and Building Inspector and reported upon by all four (4) prior to the public hearing or thirty (30) days have elapsed following such referral without receipt of such reports.

1. Recreation, including golf courses, parks (but not an amusement park) boating, fishing, landings, picnic areas and any non-commercial open-air recreation use, provided there are adequate provisions for disposal of waste products and for parking.
2. Dredging, filling, drainage (in compliance with the RSA 149:8a) or otherwise altering the surface configuration of the land; streets, roads and other access ways and utility rights if essential to the productive use of land if so located and constructed as to minimize any detrimental impact of such uses upon the wetland and watershed protection areas.
3. Proper evidence to this effect shall be submitted in writing to the Board of Adjustment and shall be accompanied by the findings of a review by the Rockingham County Soil Conservation Service District of the environment effects of such proposed use upon the wetland and watershed protection area in question.

BALL FIELD VANDALISM

We have seen an increase in the vandalism at Memorial Fields on Main Street. This has caused the Town to restrict access and change some of the usage arrangements. Damage and repeated vandalism in the restrooms has caused them to be locked out completely with installation of a porta-toilet. Some items have been

damaged beyond repair, and some new improvements this summer have been destroyed by rocks and careless, malicious behavior.

This vandalism costs taxpayers money and is potentially criminal activity. If you see anything suspicious, please call the Fremont Police Department at 895 2229 during business hours, or the dispatch center at 679 2225. Of course, you can always call 911 to report any emergency or suspicious activity as well.

Please help us watch over this important investment for our community, children and adults alike. This park is a community area and we want to keep it safe and in good condition. Thank you for your help.

CABLE COMMITTEE PUBLIC HEARING

The Fremont Cable Access / Contract Renewal Committee will hold a public hearing at 7:30 pm at the Fremont Safety Complex on Tuesday September 18, 2007. The purpose of the hearing is to solicit input and comment from residents of Fremont on a cable contract renewal franchise. The Committee is currently investigating options for Fremont cable services, including renewal of the contract in place currently with Comcast.

PUBLIC INPUT IS IMPORTANT TO THIS PROCESS.

Please plan to come to this meeting. If you cannot be here feel free to attend another Cable Committee meeting or send in any written comments prior to the date of the hearing.

The Committee is publishing a new survey to obtain data from the community on services and public access issues. It is available in paper form in this newsletter. You can also get the survey on line at www.Fremont.nh.gov by clicking on the Cable Committee page. Download the survey, fill it out, and mail as indicated or drop off at boxes located at the Town Hall or can be faxed to 895 3149.

One of the discussion areas at the public hearing will be a Comcast Survey done in 2006 reviewing services and possible costs to consumers. Printed copies of the survey are available at the Town Hall and Fremont Public Library; as well as from the Committee, for review. Additionally, any results received from the Committee's survey will also be reviewed. The Committee is looking at areas of Fremont served by cable, public access, programming, PEG (Public, Education, Government) needs and cable services available.

More details, committee meeting minutes, and current schedules are available on line at the Cable Committee page on the Town's website. Minutes and a binder of information are also available for review at the Fremont Town Hall during Selectmen's Office business hours. Information is also on the Town's website at www.Fremont.nh.gov on the Cable Committee page.

We welcome any and all comments from the citizens of Fremont. Please feel free to contact Chairperson Brande McLean or Member Peter Bearse with questions or input by calling them at 895 8487.

The next page of the newsletter is the Cable Survey. The reverse side has mailing information so it can be folded and mailed back with a stamp. Tear out the page, complete the survey, and mail or drop it off according to instructions.

Community participation in the survey is very important. Please take a few minutes to complete it. Thank you for your time.